

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
WHITE PLAINS DIVISION**

**Trustees of the Teamsters Local 456 Pension,
Health & welfare, Annuity, Education &
Training, S.U.B., Industry Advancement and
Legal Services Funds and the Westchester
Teamsters Local Union No. 456,**

Plaintiff,

v.

**BRIGA TRUCKING, INC. and BRIGA
LANDSCAPING, INC.,**

Defendants.

Civil No. 08-01219-CONNER

**DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES**

Defendants, BRIGA TRUCKING, INC. & BRIGA LANDSCAPING, INC. (collectively "BRIGA") by their attorneys, GALGANO & ASSOCIATES, responds to the plaintiff's Complaint (the "Complaint") dated February 8, 2008, as follows:

1. BRIGA neither admits nor denies the allegations in paragraph 1 of the Complaint for the reason that the allegations state legal conclusions to which no response is required. To the extent that a response is required on behalf BRIGA, it denies the allegations in paragraph 1 of the Complaint and specifically denies that it has engaged in any violation of law purportedly set forth in the Complaint or that any action on its part cause any legally cognizable damage to plaintiff.

2. With regard to paragraph 2 of the Complaint and without expressing a view with respect to the viability of plaintiff's action, BRIGA admits plaintiff's claims are purportedly predicated upon and arise under the statutes set forth therein.

3. BRIGA admits the allegations contained in paragraph 3 of the Complaint to the extent that that venue is properly established in this Court.

4. BRIGA neither admits nor denies the allegations contained in paragraph 4 of the Complaint for the reason that he lacks knowledge or information sufficient to form a belief as to the truth thereof.

5. BRIGA neither admits nor denies the allegations contained in paragraph 5 of the Complaint for the reason that he lacks knowledge or information sufficient to form a belief as to the truth thereof.

6. BRIGA neither admits nor denies the allegations contained in paragraph 6 of the Complaint for the reason that he lacks knowledge or information sufficient to form a belief as to the truth thereof.

7. BRIGA neither admits nor denies the allegations contained in paragraph 7 of the Complaint for the reason that he lacks knowledge or information sufficient to form a belief as to the truth thereof.

8. BRIGA neither admits nor denies the allegations contained in paragraph 8 of the Complaint for the reason that he lacks knowledge or information sufficient to form a belief as to the truth thereof.

9. BRIGA neither admits nor denies the allegations contained in paragraph 9 of the Complaint for the reason that he lacks knowledge or information sufficient to form a belief as to the truth thereof.

10. BRIGA denies the allegations contained in paragraph 10 of the Complaint.

11. BRIGA admits the allegations contained in paragraph 11 of the Complaint.

12. BRIGA denies the allegations contained in paragraph 12 of the Complaint.

13. BRIGA denies the allegations contained in paragraph 13 of the Complaint.

14. In response to paragraph 14 of the Complaint, BRIGA repeats, reiterates and incorporates by reference each and every response to the allegations in paragraphs 1 through 13 of the Complaint.

15. BRIGA neither admits nor denies the allegations contained in paragraph 15 of the Complaint for the reason that he lacks knowledge or information sufficient to form a belief as to the truth thereof.

16. BRIGA denies the allegations contained in paragraph 16 of the Complaint.

17. BRIGA denies the allegations contained in paragraph 17 of the Complaint.

18. BRIGA denies the allegations contained in paragraph 18 of the Complaint.

19. BRIGA denies the allegations contained in paragraph 19 of the Complaint.

20. BRIGA denies the allegations contained in paragraph 20 of the Complaint.

21. BRIGA denies the allegations contained in paragraph 21 of the Complaint.

22. In response to paragraph 22 of the Complaint, BRIGA repeats, reiterates and incorporates by reference each and every response to the allegations in paragraphs 1 through 21 of the Complaint.

23. BRIGA denies the allegations contained in paragraph 23 of the Complaint.

24. BRIGA denies the allegations contained in paragraph 24 of the Complaint.

25. BRIGA denies the allegations contained in paragraph 25 of the Complaint.

26. BRIGA denies the allegations contained in paragraph 26 of the Complaint.

27. BRIGA neither admits nor denies the allegations contained in paragraph 27 of the Complaint for the reason that the statements therein are akin to a prayer for relief, for which no intelligent response can be made.

AFFIRMATIVE AND SEPARATE DEFENSES

Without assuming the burden of proof that would otherwise rest on plaintiff, for his defenses, defendants allege as follows:

FIRST DEFENSE

28. The plaintiff complaint fails to state a claim against BRIGA as to which relief may be granted.

SECOND DEFENSE

29. The plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

THIRD DEFENSE

30. The plaintiff lacks standing to bring the Complaint and to assert each and every claim set forth therein.

FOURTH DEFENSE

31. The plaintiff's claims are barred by the doctrines of laches, estoppel, unclean hands and waiver.

FIFTH DEFENSE

32. The plaintiff's claims are barred, in whole or in part for failing to join necessary parties.

SIXTH DEFENSE

33. The plaintiffs have not suffered any injuries or damages caused by the conduct of BRIGA.

SEVENTH DEFENSE

34. The plaintiff's claims are barred in whole or in part because the plaintiff's damages, if any, were the result of the intervening or superseding conduct of third parties.

EIGHTH DEFENSE

35. The plaintiff's claims are barred in whole or in part because the plaintiff would be unjustly enriched if it was allowed to recover any or a portion of the damages alleged in the Complaint.

NINTH DEFENSE

36. The plaintiff's claims for damages are barred in whole or in part because their alleged damages, if any, are speculative and because of the impossibility of the ascertainment and allocation of the alleged damages.

TENTH DEFENSE

37. The plaintiff's claims are barred in whole or in part because the plaintiff's damages, if any, were the result of its own culpable conduct.

ELEVENTH DEFENSE

38. The plaintiff's claims are barred in whole or in part due to payment on the part of Defendant.

TWELFTH DEFENSE

39. The plaintiff's claims are barred by virtue of the doctrine known as *res judicata*.

WHEREFORE, BRIGA respectfully requests that this Complaint be dismissed with prejudice and that he be awarded his costs, expenses, and attorneys' fees incurred in defending against the Complaint and such other and further relief as this Court deems just and proper.

Dated: White Plains, New York
March 24, 2008

Yours, etc.,



GEORGE W. GALGANO, JR., ESQ.
(GG 8009)

Attorney for Defendants

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